

consent decree requires three defendants, Kenneth Riffle, Riffle Equipment Company, and Myron Jackson d/b/a Myron Jackson Trucking to gather asbestos containing materials at the Site and bury them in existing foundations at the Site, in accordance with the National Emissions Standards for Hazardous Air Pollutants applicable to asbestos. The Consent Decree also requires the defendants to pay a civil penalty of \$500.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Princeton Enterprises, Inc., et al.*, DOJ Ref. #90-5-2-1-1462.

The proposed consent decree may be examined at the office of the United States Attorney, 12th and Chapline Streets, Room 236, Federal Building, Wheeling, WV 26033; the Region III Office of the Environmental Protection Agency, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and at the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, DC 20005, (202) 624-0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of \$7.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

**Bruce S. Gelber,**

*Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 95-19805 Filed 8-9-95; 8:45 am]

BILLING CODE 4410-01-M

## Antitrust Division

### **United States v. FTD Corporation; Florists' Transworld Delivery, Inc.; and FTD Association; Proposed Enforcement Order**

Notice is hereby given that a proposed enforcement order has been filed with the United States District Court for the Eastern District of Michigan in a civil antitrust case, *United States v. FTD Corporation, et al.*, Supp. to Civ. Action No. 56-15748.

On August 2, 1995, the United States filed a petition for an order to show cause why the respondents FTD

Corporation, Florists' Transworld Delivery, Inc. ("FTDI") and FTD Association should not be found in civil contempt for violating a consent decree entered by the court in 1990. That decree prohibited FTD, then a single entity, from exploiting its position to induce florists to forgo membership in competing floral wire associations. The United States' petition states that the three respondents violated the decree by promoting FTDI's incentive program called "FTD Only." Under the proposed enforcement order, agreed to by the parties, FTD will stop its practice of inducing member florists to use its floral wire service exclusively and will not adopt any similar program in the future. In addition, the corporate ties between FTDI and FTD Association will be significantly curtailed.

The public is invited to comment on the proposed enforcement order. Comments should be addressed to Christopher J. Kelly, Acting Chief, Civil Task Force I, U.S. Department of Justice, Antitrust Division, 3525 7th Street, N.W., Room 400, Washington, D.C. 20530 (202/514-8348). Comments must be received within sixty days.

Copies of the papers filed with the court are available for inspection in Room 207 of the U.S. Department of Justice, Antitrust Division, 325 7th Street, N.W., Washington, DC 20530 (telephone: (202) 514-2481), and at the office of the Clerk of the United States District Court for the Eastern District of Michigan, 231 West Lafayette Street, Detroit, Michigan 48226 (313/226-7200). Copies of any of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

**Rebecca P. Dick,**

*Acting Deputy Director of Operations.*

[FR Doc. 95-19811 Filed 8-9-95; 8:45 am]

BILLING CODE 4410-01-M

## DEPARTMENT OF LABOR

### **Mine Safety and Health Administration**

#### **Accident Investigation Procedures Review**

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** The Mine Safety and Health Administration (MSHA) is conducting a review of its accident investigation procedures and policies, which were last reviewed in 1991. The typical MSHA accident investigation includes a physical inspection of the mine site,

equipment testing and analysis, and witness interviews. Although the Agency is interested in the public's views on its complete investigation procedures, the Agency particularly seeks comments on the witness interview phase. MSHA will use these comments to assist in its review.

**DATES:** Written comments must be submitted on or before October 10, 1995.

**ADDRESSES:** The accident investigation procedures apply to all mines, and comments may be sent to either the Administrator, Coal Mine Safety and Health, 4015 Wilson Boulevard, Room 828, Arlington, Virginia 22203, Fax: 703-235-1517 or to the Administrator, Metal and Nonmetal Mine Safety and Health, 4015 Wilson Boulevard, Room 728, Arlington, Virginia 22203, Fax: 703-235-9173, as appropriate.

Commenters are encouraged to send comments on a computer disk along with an original hard copy.

**FOR FURTHER INFORMATION CONTACT:** Jack Tisdale, Accident Investigation Program Manager, Division of Coal Mine Safety and Health, 703-235-1140, or David Park, Accident Investigation Program Manager, Division of Metal and Nonmetal Mine Safety and Health, 703-235-1565.

**SUPPLEMENTARY INFORMATION:** MSHA accident investigation procedures are designed to identify all relevant facts about a mining accident in an orderly manner and then to determine the contributory causes of a particular accident. After MSHA reviews and analyzes the facts, the Agency issues a report describing its findings and conclusions regarding the accident. The purpose of the report is to help prevent similar accidents from occurring in the future.

The investigation process itself is composed of three phases—physical inspection of the areas of the affected mine, analysis and testing of mining equipment which may have been involved in the accident, and interviews of persons who may have relevant information about the conditions or practices surrounding the accident. While these phases have not changed over the years, issues such as who should be present during witness interviews have been raised.

Specifically, in investigations involving fatalities, concerns have been raised over the attendance of mine operators and their representatives, miners' representatives, families of the victims and their representatives, and the news media. It is MSHA's experience that the attendance of these parties at a witness interview session

can adversely affect the Agency's ability to ascertain the facts important to understanding the cause of the accident.

In order to seek a wide range of viewpoints in its review of these procedures, particularly as they pertain to witness interviews, the Agency is soliciting comments, especially from people who would be directly affected if revised witness interview procedures result from this review. The principal procedures that are the subject of the review are contained in this notice.

### **I. Legislative and Regulatory Background**

The responsibility of MSHA to conduct accident investigations is found in the statutory provisions of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. section 801 et seq. (Mine Act).

Among other responsibilities, section 103(a) of the Mine Act directs that MSHA shall make frequent inspections and investigations for the purpose of obtaining, utilizing, and disseminating information relating to health and safety conditions, the causes of accidents, and the causes of diseases and physical impairments originating in mines. MSHA is also given the responsibility in section 103 to gather information with respect to mandatory health and safety standards, determine whether an imminent danger exists, and whether there is compliance with the mandatory health and safety standards or with any citation, order, or decision issued under the Mine Act.

In addition to the general provisions of section 103(a) for the investigation of accidents, the Mine Act provides significant and specific responsibilities for MSHA to assume in connection with those investigations. For example, section 103(b) provides that the Agency may hold a public hearing and issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents. In connection with any public hearing, oaths may be administered as well.

Other statutory authority in section 103 can indirectly affect accident investigations. Section 103(j) provides that in the event an accident occurs, the operator shall notify MSHA and shall take appropriate measures to prevent the destruction of any evidence which would assist in investigating the causes of the accident. MSHA is authorized, where rescue and recovery work is necessary, to take whatever action is deemed appropriate to protect the life of any person, and the Agency may supervise and direct the rescue and recovery activities in such mine.

Finally, section 103(d) requires that accidents are to be investigated by the mine operator or his agent to determine the cause of the accident and means of preventing a recurrence. Records regarding the accident and investigation are to be made available to MSHA. Regulations regarding operator accident investigations and recordkeeping are contained in 30 CFR part 50.

### **II. Current Investigation Procedures**

MSHA currently has guidelines and instructions for conducting investigations of accidents in the MSHA handbook, "Investigation of Mining Accidents and Other Occurrences Relating to Health and Safety." The guidelines and instructions are primarily procedural and administrative, and are intended to serve as organizational and technical aids for MSHA's accident investigators. The handbook, originally dated September 1988, was last substantively revised in July 1991.

MSHA's objective is to conduct its investigations in an independent and unbiased manner. As part of each accident investigation, Agency staff in various areas of expertise thoroughly examine the circumstances, determine the causes, and disseminate information which may be used to prevent future similar accidents. MSHA conducts its investigations in a manner designed to assure that the information gathered is complete and accurate. Each investigation is composed of three phases including a physical inspection of the affected mine, complete analysis and testing of mining equipment which may have been involved in the accident, and interviews of persons who may have relevant information about the conditions or practices surrounding the accident. The following discussion addresses each phase.

#### **A. Physical Examination of the Accident Site**

The physical examination of an accident site is usually conducted in cooperation with the relevant state agency that has authority over matters of mine safety and health, the mine operator, and the miners' representative. State mine safety and health agencies generally have some statutory or regulatory authority to conduct accident investigations. Consistent with the Mine Act, mine operators accompany MSHA personnel during the physical examination of the accident site. Section 103(f) of the Mine Act provides rights for miners' representatives to participate in enforcement-related activities of MSHA. In the accident investigation context, these rights include the

participation of miner representatives during the physical examination of accident sites.

#### **B. Equipment Analysis**

Another phase of MSHA accident investigations involves the analysis of mining equipment which may have been involved in the accident. In these cases, MSHA investigators have invited the equipment manufacturer's representative to participate as an information source for MSHA. The equipment manufacturer assists the MSHA investigators in making determinations relative to equipment failures or malfunctions. MSHA may also perform testing of equipment or other physical evidence as necessary to identify contributing or causative factors. Other private interests may participate in these testing activities if MSHA believes that their participation will assist in the Agency's analysis of the cause of the accident. State officials, representatives of the mine operator, the manufacturer, and miners' representatives ordinarily may observe equipment testing.

#### **C. Witness Interviews**

The witness interview phase is an important part of the accident investigation. Because witness recollections can become vague with the passage of time, these interviews usually occur as soon as possible after the accident scene has been physically examined. The goal of the interview is to obtain a candid, precise, and accurate statement from the witness. Cooperation between the mine operator, miners, and any other interested parties in the investigation during the interview phase is essential. It results in a greater opportunity for MSHA to develop a comprehensive accident report based on accurate facts, resulting in valid conclusions as to the cause of the accident. These conclusions, in turn, lead to better guidance for MSHA and the public in preventing future accidents.

Under current accident investigation policy, each person is interviewed separately to obtain his or her personal recollection of the relevant events and circumstances. The witness' statement is completely voluntary. The witness may refuse to answer any question or may terminate the interview at any time. Witnesses are advised prior to the interview that they have a right to have a personal representative of their choice present during the interview process. They are also advised that there will be a verbatim record of the interview, which will be made available to the public at the conclusion of the

investigation (except in those cases where a confidential interview is given). Witnesses are advised of their option to make a confidential statement, which MSHA will protect from public disclosure to the extent allowed by law.

MSHA accepts relevant information from any source, public or confidential. Information obtained by others is considered on its merits but, as the fact finder and investigating authority, MSHA makes its own evaluation of the probative value of such information.

MSHA recognizes that many states have a responsibility for the investigation of mining accidents which occur in their jurisdiction. For this reason, MSHA cooperates extensively with state mining officials in conducting all phases of its accident investigations, including witness interviews.

The MSHA investigator considers the following factors when determining the appropriate procedures for conducting witness interviews:

1. The role of the mine operator, miners' representative, and the state mining agency;
2. Ground rules for the questioning of witnesses by parties other than MSHA;
3. The method for recording the interviews (e.g., tape recorder, stenographic reporter); and
4. The location of the interviews.

The procedures which are used depend upon the circumstances of each accident investigation, and the decisions are made by the investigator at the scene on a case-by-case basis. Witness interviews conducted with the participation of the mine operator, the representative of the miners, where the miners have representation, and the state inspection agency is the normal procedure. This multi-party format results in an investigation where the affected parties are afforded an opportunity to bring their viewpoints to the investigation and enhance the completeness of the report. Under current policy, MSHA may limit the participation and/or attendance of parties either directly or indirectly involved in the investigation during the witness interview phase. Additionally, the attendance of other persons, particularly persons not directly involved in the investigation, may also be restricted.

The MSHA Accident Investigation Manual lists five factors for the MSHA investigator to consider when determining who may be present for a witness interview. These factors are:

1. Public statements or disclosures from participants that may compromise the integrity of the investigation;

2. Behavior during interviews that could interfere with the effectiveness of the interview process;

3. Otherwise creating an atmosphere not conducive to MSHA's carrying out its investigatory responsibilities;

4. Indications of disruptive conduct as evidenced during the physical inspection of the mine; and

5. Requests by the witness for a private interview.

The existence of one or more of these factors may cause the accident investigator to conduct witness interviews in private; that is, with only federal and state mining officials present.

In all instances, however, each witness is afforded the opportunity to be accompanied by a personal representative of his or her choosing.

### III. Court Decisions Which Have Affected the Procedure

For many years, MSHA and its predecessor agencies used the multi-party format for conducting accident investigations, including the witness interview process. Typically, the operator and the representative of the miners, if any, joined with MSHA and state mining officials in all aspects of the accident investigation process. The witness statements were voluntary and public hearings were normally not held. (The last public hearings in an accident investigation were held in 1976 and 1977 as part of MSHA's investigations of the Scotia mine explosions and the Tower City, Pennsylvania, inundation.)

In 1984 there was high media interest in the Wilberg Mine accident investigation. Twenty-seven miners lost their lives in a fire. Media representatives sued MSHA, seeking access to the witness interview sessions. In *Society of Professional Journalists v. Secretary of Labor*, 616 F.Supp. 569 (D.D.C. Utah, 1985), the Court ruled that while the government could conduct private questioning (excluding the media) solely by government officials, MSHA could not selectively permit some members of the public to attend a questioning session while excluding other members of the public, specifically, the media. The Court did not explicitly resolve the issue of exactly who was to be considered a member of the public. MSHA appealed the decision to the Tenth Circuit Court of Appeals. The Circuit Court directed that the judgment be vacated and dismissed the case on the ground that the issue was moot since MSHA's investigation was completed 832 F.2d 1180 (10th Cir., 1987).

After that case, MSHA instituted an investigative process which provided

that the operator and the miners' representative be excluded as participants in the witness interview phase, except when either party was acting as the personal representative of an individual witness. Later, during an accident investigation at a union-affiliated mine, the United Mine Workers of America (UMWA) filed a court challenge to change this process. In *International Union, UMWA v. Martin*, 785 F.Supp. 1025 (D.D.C., 1992), the Federal District Court for the District of Columbia upheld the right of the government to conduct completely private government questioning of witnesses. The practical effect of this legal decision was to create a witness interview procedure which neither the mine operator nor the miners' representative favored. MSHA then decided that it would give the Agency's accident investigators discretion to conduct interviews in a manner most conducive to a complete and accurate accident report. Revised procedures, issued in 1991, included this discretionary authority and are in effect today.

### IV. Discussion of the Witness Interview Process

In the past, MSHA has successfully conducted joint interviews with the participation of the mine operator, the representative of the miners, and the state inspection agency, and has found that such procedures often result in the most complete account of an accident. However, MSHA is concerned that in some circumstances the presence of nongovernmental parties in the interviews can discourage witnesses from being candid and forthcoming. Therefore, in some investigations MSHA has conducted "government participants only" interviews, allowing only state enforcement personnel to be present along with MSHA.

In recent years, this issue has been raised in various circumstances. For example, MSHA investigators have had to determine whether a victim's family member and attorney should be permitted to attend witness interview sessions. In other instances, MSHA investigators have found reason to conduct interviews with only MSHA and state officials present, and the operator or the operator's attorney have requested to serve as the personal representative for employee witnesses. In similar situations, attorneys for the operator have requested to observe the witness interview sessions. The issue of "government participants only" interviews has also been raised when attorneys representing equipment manufacturers requested to participate

as observers at witness interview sessions. Also, on occasion several persons from the involved interests have requested to be present at witness interviews, creating a large group of participants.

#### V. Request for Comments

MSHA is specifically soliciting public comment on the Agency's accident investigation policy. MSHA is particularly interested in comments and suggestions for improving the witness interview phase of the investigation.

As stated earlier, MSHA's goal is an accident investigation procedure that provides a forum for collecting the most accurate information about the causes of accidents. This information will be used to develop an investigation report that provides the most effective tool to the Agency and the public in preventing future accidents.

Dated: August 8, 1995.

**J. Davitt McAteer,**

*Assistant Secretary for Mine Safety and Health.*

[FR Doc. 95-19786 Filed 8-9-95; 8:45 am]

BILLING CODE 4510-43-P

#### Occupational Safety and Health Administration

#### Maritime Advisory Committee for Occupational Safety and Health: Meeting

**AGENCY:** Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

**ACTION:** Maritime Advisory Committee for Occupational Safety and Health (MACOSH); Notice of Meeting.

**SUMMARY:** Notice is hereby given that the Maritime Advisory Committee for Occupational Safety and Health, established under section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor on matters relating to occupational safety and health programs, policies, and standards in the maritime industries of the United States will meet September 7 and 8, 1995, at the Inn on Bourbon Street, 541 Bourbon Street, New Orleans, Louisiana.

**ADDRESSES:** Any written comments in response to this notice should be sent to the following address: OSHA, Office of Maritime Standards, Room N-3621, 200 Constitution Avenue, NW, Washington, DC 20210. Phone (202) 219-7234, fax (202) 219-7477.

**FOR FURTHER INFORMATION CONTACT:** Mr. Larry Liberatore, Office of Maritime Standards, OSHA, (202) 219-7234.

**SUPPLEMENTARY INFORMATION:** The third meeting of the Maritime Advisory Committee on Occupational Safety and Health will be held September 7 from 9 to 5, and September 8 from 9 to 1 at the Inn on Bourbon Street, 541 Bourbon Street, New Orleans, Louisiana. At this meeting, the Committee will continue its discussions on maritime enforcement, standards, and outreach initiatives. An extensive discussion of safety and health programs is planned.

All interested persons are invited to attend the public meetings of MACOSH. Seating will be available to the public on a first-come, first-served basis. Individuals with disabilities wishing to attend should contact Theda Kenney at 202-219-8061, no later than August 25, 1995, to obtain appropriate accommodations.

Written data, views or comments for consideration by the Committee may be submitted, preferably with 20 copies, to Larry Liberatore at the address provided above. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting. Members of the general public may request an opportunity to make oral presentations at the meeting. Oral presentations will be limited to statements of fact and views, and shall not include any questioning of the committee members or other participants unless these questions have been specifically approved by the chairperson. Anyone wishing to make an oral presentation should notify Larry Liberatore before the meeting. The request should state the amount of time desired, the capacity in which the person will appear and a brief outline of the content of the presentation. Persons who request the opportunity to address the Advisory Committee may be allowed to speak, as time permits, at the discretion of the Chair of the Advisory Committee.

Signed at Washington, DC, this 3rd day of August 1995.

**Joseph A. Dear,**

*Assistant Secretary of Labor.*

[FR Doc. 95-19791 Filed 8-9-95; 8:45 am]

BILLING CODE 4510-26-M

#### NATIONAL SCIENCE FOUNDATION

#### Collection of Information Submitted For OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting an expedited notice of information collection that will affect the public.

Interested persons are invited to submit comments by September 7, 1995. Copies of materials may be obtained at the NSF address or telephone number shown below.

(A) *Agency Clearance Officer.* Herman G. Fleming, Division of Contracts, Policy, and Oversight, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, or by telephone (703) 306-1243. Comments may also be submitted to:

(B) *OMB Desk Officer.* Office of Information and Regulatory Affairs, ATTN: Jonathan Winer, Desk Officer, OMB, 722 Jackson Place, Room 3208, NEOB, Washington, DC 20503.

*Title:* Collaborative for Excellence in Teacher Preparation.

*Affected Public:* Not for profit institutions.

*Respondents/Reporting Burden:*

Surveys	Respondents	Average burden
Faculty .....	50	30 minutes.
Preservice Teachers Interview/Focus Groups:	50	20 minutes.
Principal Investigators.	2	2 hours.
Education Faculty ...	3	20 minutes.
Math/Science Faculty.	6	20 minutes.
Dean/Chair .....	3	30 minutes.
K-12 Teachers .....	4	20 minutes.
Student Focus Group.	5	30 minutes.
<i>Total Hours</i> 324		

*Abstract:* Information is needed to assess the planning process, characteristics, and impact of the Collaborative for Excellence in Teacher Preparation. Data obtained through surveys and interviews of college faculty, surveys and focus groups of preservice students and interviews of K-12 teachers will be used for this purpose and for program planning within the Directorate for Education and Human Resources.

Dated: August 8, 1995.

**Herman G. Fleming,**

*Reports Clearance Officer.*

[FR Doc. 95-19762 Filed 8-9-95; 8:45 am]

BILLING CODE 7555-01-M

#### Special Emphasis Panel in Design, Manufacture, and Industrial Innovation; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting: